

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

THE PEOPLE,

Plaintiff and Respondent,

v.

DANNY MONROE,

Defendant and Appellant.

B271442

(Los Angeles County
Super. Ct. No. 6PH01682)

APPEAL from an order of the Superior Court of Los Angeles County. Jacqueline Lewis, Judge. Affirmed.

Dave Linn, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance by Plaintiff and Respondent.

In 2014, defendant was convicted, by means of no contest plea, of carrying a loaded firearm in public. (Pen. Code, § 25850.) The crime is punishable as a felony if one of certain allegations are proven. In defendant's case, it was alleged, and defendant admitted, the allegation under subdivision (c)(3), that defendant was "an active participant in a criminal street gang, as defined in subdivision (a) of Section 186.22." He received a two-year felony mid-term sentence.

Defendant was released on parole on January 3, 2016. On February 25, 2016, a compliance search was conducted, and authorities discovered methamphetamine in defendant's possession.

A parole revocation hearing was held. Defendant argued Proposition 36 applied. Section 3063.1 provides that parole shall not be revoked for a nonviolent drug possession offense, except where certain exceptions apply. The trial court concluded one of the exceptions applied; specifically, that the statute does not apply to a parolee "who has been convicted of one or more serious or violent felonies in violation of subdivision (c) of Section 667.5 or Section 1192.7." (§ 3063.1, subd. (b)(1).) In light of the court's determination, defendant admitted the violation in exchange for 120 days in jail. Defendant filed a timely notice of appeal, stating he was appealing the denial of relief under Proposition 36. The court issued a certificate of probable cause on that basis.

On September 9, 2016, defendant's appointed counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*) in which no issues were raised. The brief included a declaration from counsel that he had reviewed the record (including the record of the underlying conviction) and had sent defendant a letter advising him of his intention to file a *Wende* brief and that

he could file a supplemental brief if he chose to do so. That same day, this court sent defendant a letter advising him that a *Wende* brief had been filed and that he had 30 days to submit a brief or letter raising any issues he wished us to consider. Defendant did not file a supplemental brief.

We have examined the entire record and are satisfied that defendant's attorney has fully complied with his responsibilities and that no arguable issues exist. (*Wende, supra*, 25 Cal.3d 436.) Defendant's underlying offense constituted a violent felony, due to the gang enhancement. (Pen. Code, § 1192.7, subd. (c)(28); *People v. Infante* (2014) 58 Cal.4th 688, 692-695; *People v. Lamas* (2007) 42 Cal.4th 516, 519.) He was therefore ineligible for Proposition 36 relief. (Pen. Code, § 3063.1, subd. (b)(1).)

DISPOSITION

The judgment is affirmed.

RUBIN, J.

WE CONCUR:

BIGELOW P. J.

FLIER, J.